

United States Bankruptcy Court
District of New Mexico

Van Winkle,
Plaintiff
Bellevue Valley Land Co.,
Defendant

Adv. Proc. No. 20-01022-t

CERTIFICATE OF NOTICE

District/off: 1084-1
Date Rcvd: Jan 22, 2021

User: admin
Form ID: pdfor1

Page 1 of 1
Total Noticed: 1

Notice by first class mail was sent to the following persons/entities by the Bankruptcy Noticing Center on Jan 24, 2021:

NONE

Notice by electronic transmission was sent to the following persons/entities by the Bankruptcy Noticing Center.

Electronic transmission includes sending notices via email (Email/text and Email/PDF), and electronic data interchange (EDI). Electronic transmission is in Eastern Standard Time.

Recip ID	Notice Type: Email Address	Date/Time	Recipient Name and Address
ust	Email/Text: USTPREGION20.OC.ECF@USDOJ.GOV	Jan 23 2021 01:12:00	United States Trustee, PO Box 608, Albuquerque, NM 87103-0608

TOTAL: 1

BYPASSED RECIPIENTS

The following addresses were not sent this bankruptcy notice due to an undeliverable address, *duplicate of an address listed above, *P duplicate of a preferred address, or ## out of date forwarding orders with USPS.

NONE

NOTICE CERTIFICATION

I, Joseph Speetjens, declare under the penalty of perjury that I have sent the attached document to the above listed entities in the manner shown, and prepared the Certificate of Notice and that it is true and correct to the best of my information and belief.

Meeting of Creditor Notices only (Official Form 309): Pursuant to Fed .R. Bank. P.2002(a)(1), a notice containing the complete Social Security Number (SSN) of the debtor(s) was furnished to all parties listed. This official court copy contains the redacted SSN as required by the bankruptcy rules and the Judiciary's privacy policies.

Date: Jan 24, 2021 Signature: /s/Joseph Speetjens

CM/ECF NOTICE OF ELECTRONIC FILING

The following persons/entities were sent notice through the court's CM/ECF electronic mail (Email) system on January 22, 2021 at the address(es) listed below:

Name	Email Address
Joel Alan Gaffney	on behalf of Plaintiff Tammy Sprague joel@gaffneylaw.com 5519@notices.nextchapterbk.com;paul@gaffneylaw.com
Joel Alan Gaffney	on behalf of Plaintiff Brian Van Winkle joel@gaffneylaw.com 5519@notices.nextchapterbk.com;paul@gaffneylaw.com
W. T. Martin Jr.	on behalf of Defendant Ellen B. Williams martinlaw@zianet.com cgalloway@lawmdm.com
W. T. Martin Jr.	on behalf of Defendant John H. Williams martinlaw@zianet.com cgalloway@lawmdm.com
W. T. Martin Jr.	on behalf of Defendant Bellevue Valley Land Co. martinlaw@zianet.com cgalloway@lawmdm.com

TOTAL: 5

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW MEXICO

In re:

FRED DALE VAN WINKLE,

No. 13-11743 t7

Debtor.

BRIAN VAN WINKLE and
TAMMY VAN WINKLE,
Co-personal representatives,

Plaintiffs,

v.

Adv. No. 20-1022 t

BELLEVIEW VALLEY LAND CO.,
JOHN H. WILLIAMS, and
ELLEN B. WILLIAMS,

Defendants.

ORDER AND NOTICE OF HEARING

This matter comes before the Court on Defendants' Motion for Summary Judgment, filed October 29, 2020, doc. 14 (the "Motion"). The Court has reviewed the Motion, the accompanying memorandum brief, the response thereto, and the reply in support. In addition, the Court has reviewed the dockets in the main bankruptcy case, No. 13-11743, in Adv. Pro. No. 15-1047, and in the state court action styled *Bellevue Valley Land Co. v. Tammy Sprague*, No. D-1215-CV-2010-01054, pending in the Twelfth Judicial District Court, State of New Mexico (the "State Court Action"). Being sufficiently advised, the Court HEREBY ORDERS:

1. A hearing on the Motion will be held on February 8, 2021, at 10:30 a.m., in the Brazos Courtroom, 5th Floor, Pete V. Domenici U.S. Courthouse, 333 Lomas Blvd. NW, Albuquerque, New Mexico. One hour has been set aside for the hearing. Each side will be allowed

thirty minutes to make their presentation. Counsel may participate by telephone if prior arrangements are made.

2. At the hearing, parties should be prepared to discuss the following:

a. Which entity attempted to redeem the subject Otero County, New Mexico property (the “Property”) on or about April 20, 2015: Tammy Sprague, the probate estate of Fred Van Winkle, the bankruptcy estate, or someone else?

b. Is the probate estate of Fred Van Winkle a different entity than the Debtor, such that the attempted redemption, if successful, would have been done by a third party rather than the judgment debtor?

c. After title to the Property passed to John and Ellen Williams on or about July 28, 2014, did it ever pass to Fred Van Winkle’s probate estate? In particular, what was the status of title when the Court entered on June 30, 2015, in Adv. Pro. No. 15-1047, the Stipulated Order Staying State Court Litigation Pending This Court Addressing Adversary Complaint (doc. 7)?

d. Did the judgment creditors’ judgment lien ever attach or re-attach to the Property after the July 8, 2014, special master’s sale?

e. Did the judgment lien ever attach to the \$73,200.94 tendered to the state court by Ms. Sprague as personal representative of the estate of Fred Van Winkle (the “Redemption Funds”)? If so, please explain how the judgment lien came to attach to personal property.

f. If not, did the judgment creditors’ attempt to get the Redemption Funds out of the state court registry and apply them to their deficiency judgment against Debtor constitute “an act to collect, recover or offset any such debt as a personal liability of the debtor”? *See* 11 U.S.C. § 524(a)(2).



Hon. David T. Thuma
United States Bankruptcy Judge

Entered: January 22, 2021

Copies to: Counsel of record

Brian Van Winkle
PO Box 2595
Ruidoso, NM 88355